



Office of the Commissioner  
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KALINCHAK

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#36(N)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Donald R. Huffman,  
et al.

Examiner: S. Kalinchak

Serial No.: 580,246

Art Unit: 1103

Filed: October 22, 1991

Docket: 7913Z

For: FORM OF CARBON

Dated: March 25, 1994

Hon. Commissioner of Patents  
and Trademarks  
Washington, DC 20231

LETTER

Sir:

This is a communication which confirms and summarizes the conference that occurred on March 15, 1994, between Administrative Judge Andrew H. Metz and applicants' attorney, Mark J. Cohen, regarding the necessity to respond at the present time to an outstanding Office Action in the above-identified application.

Applicants wish to thank Judge Metz for conferring with their representative and for the courtesy and kindness which he exhibited to applicants' attorney. In addition, they thank Judge Metz for his helpful commentary.

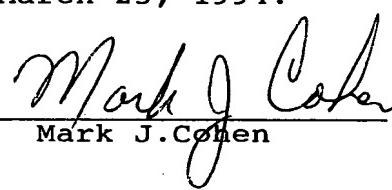
The facts that were discussed with Judge Metz during the conference call are as follows:

On November 30, 1993, an Office Action was issued in the above-identified case. Two days later, on December 2, 1993, an interference, having Interference No. 103,281, was declared involving the above-identified application. Applicants tried to

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on March 25, 1994.

Dated: March 25, 1994

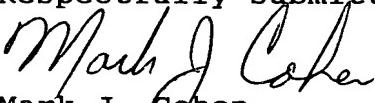
  
Mark J. Cohen

discuss this matter with Examiner Kalinchak, but inasmuch as the Examiner no longer had jurisdiction in this matter, he kindly referred applicants' attorney to Judge Metz.

Applicants' attorney advised Judge Metz of these facts. Judge Metz indicated that, in accordance with 37 C.F.R. §1.615 and MPEP §2315, ex parte prosecution in the underlying application has been suspended. Since the Examiner no longer has jurisdiction and since jurisdiction is with the Board of Appeals and Patent Interferences, the Office Action can be completely disregarded. Instead, it is treated as if it never issued. Judge Metz further assured applicants' attorney that the underlying application would not be abandoned if applicants do not respond to the outstanding Office Action. Finally, Judge Metz advised that jurisdiction in this application will return to the Examiner at the conclusion of the interference. At that time, if the Examiner wishes to reiterate the rejections alleged in the Office Action dated November 30, 1993, he can reissue a new Office Action; then, applicants would be required to respond to any rejections raised therein.

In view of Judge Metz' opinion, applicants will not respond to the Office Action dated November 30, 1993. In accordance with his opinion, it is respectfully submitted that the case should not be considered abandoned for failure to respond to this Office Action.

Respectfully submitted,

  
Mark J. Cohen  
Attorney for Applicant  
Reg. No. 32,211

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MJC:ds